

326-08/MEU

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CAPE BENAT NAVIGATION INC.,

Plaintiff,

-against-

PROGETRA SA,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 7/9/2008
08 CV 5501 (DC)

**ORDER DIRECTING RELEASE OF
FUNDS AND
DISCONTINUANCE OF ACTION**

WHEREAS pursuant to an Order signed by this Court dated June 18, 2008, the Clerk of the Court issued a Process of Maritime Attachment and Garnishment ("PMAG") authorizing the restraint of property belonging to Defendant PROGETRA SA up to the sum of \$125,682.68 in favor of claims which have been advanced in London arbitration on the part of Plaintiff CAPE BENAT NAVIGATION, INC.; and

WHEREAS the PMAG having been served upon a number of garnishee banks including Deutsche Bank; and

WHEREAS funds in the sum of \$121,000.30 have been restrained by garnishee Deutsche Bank; and

WHEREAS notice of the restraint of said funds has been provided by CAPE BENAT to PROGETRA in accordance with Local Rule B.2; and

WHEREAS counsel for Defendant PROGETRA, pursuant to a telefax dated July 7, 2008, a copy of which has been provided to the Court as an attachment to the July 9, 2008 letter from Freehill Hogan & Mahar, LLP, counsel for Plaintiff CAPE BENAT NAVIGATION, has confirmed Defendant's acknowledgment that it owes a debt to Plaintiff CAPE BENAT NAVIGATION in the sum of \$125,682.68; and

WHEREAS Plaintiff CAPE BENAT NAVIGATION has indicated that the correct sum owed is \$104,920.12 representing a principal claim for unpaid demurrage in the sum of \$94,498, costs of \$4,358.50, and interest of \$6,063.62 from 6 August 2007;

IT IS HEREBY ORDERED AND DIRECTED that garnishee Deutsche Bank pay to Plaintiff CAPE BENAT NAVIGATION pursuant to wire details to be provided by Plaintiff's counsel the sum of \$104,920.12; and

IT IS HEREBY FURTHER ORDERED AND DIRECTED that ~~is~~ garnishee Deutsche Bank pay all remaining funds which it holds to Defendant PROGETRA pursuant to wire details to be provided to the bank; and

IT IS HEREBY FURTHER ORDERED AND DIRECTED that Plaintiff's counsel serve a copy of this Order upon all other garnishee banks which are directed to report to Plaintiff's counsel whether they have restrained funds and if so to release said funds to Defendant PROGETRA; and

IT IS HEREBY FURTHER ORDERED that this action is hereby dismissed with prejudice and without costs as to either party.

SO ORDERED:

July 9, 2008


Hon. Denny Chin, U.S.D.J.